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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/687,474

10/14/2003

Shahla C. Cisneros

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THE DIRECTV GROUP INC

PATENT DOCKET ADMINISTRATION RE/R11/A109

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EXAMINER

BOND, CHRISTOPHER H

ART UNIT

PAPER NUMBER

3709

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

12/19/2006

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/687,474

Applicant(s)

CISNEROS ET AL.

Examiner

Christopher H. Bond

Art Unit

3709

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10/14/2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION
Specification

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 8-14 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter, because claim 8 includes "users" within the scope of the claimed invention. As disclosed, these users are human beings. The user is actually being recited as part of the claimed invention.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. **Claim 8 is rejected under 35 U.S.C. 102(e) as being anticipated by NTN**

Communications Inc 10-K SEC Filing of March 6, 2002, (NTN).

3. NTN discloses (page 2), "The NTN Network is North America's largest...interactive television network. [The]...network broadcasts a variety of interactive multi-player sports and trivia games...365 days per year..." (equivalent to applicant's limitation of interactive gaming). NTN further discloses (page 4), "[NTN network]...develop[s] and produce[s] original programming at our facilities...for distribution to our sites...We can provide simultaneous transmission of up to 16 live events for interactive play and a multitude of interactive games and other programs, allowing distribution of different programs to customers in different geographical locations" (equivalent to applicant's limitation of a central broadcast center over a first communications network and a game system residing within the central broadcast center). NTN further discloses (page 4) that they, "...use either satellite or Internet service providers to distribute our programming to our customers" (equivalent to applicant's limitation of having a plurality of users who access the gaming system via the first communications network). NTN discloses (page 3), "The NTN Network features games licensed pursuant to a perpetual non-exclusive license agreement from Buzztime. [They]...generally broadcast "premium trivia competitions....and live interactive sports-oriented play-along games..." (equivalent to applicant's limitation of providing a plurality of games accessible through the gaming system). NTN then discloses (page 3), "The NTN Network's interactive programming permits players to compete in real-time within each location and to be ranked against players in all locations throughout North America. At the conclusion of each game broadcast, players' scores are calculated and top scores are sent via phone lines to our broadcast

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center...Within minutes, rankings for each location are tabulated and displayed and rankings and scores for the top locations are transmitted back to all locations via the NTN Network for display" (equivalent to applicant's limitation of a scoring protocol where scoring is provided in real-time back to the gaming system via a second communication network).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over NTN in view of Walker et al., USPAT 5,779,549, (Walker) and further in view of Weitz, US PUB 2003/0171148, (Weitz).**

6. In regards to claim 9, NTN discloses (page 3), "The NTN Network features games licensed pursuant to a perpetual non-exclusive license agreement from Buzztime. [They]...generally broadcast "premium trivia competitions....and live interactive sports-oriented play-along games..." (equivalent to applicant's limitation of having a gaming application associated with each of the plurality of games). NTN further discloses (page 4) that, "...[their] facilities are equipped with video, satellite and communications equipment, and....multimedia site server computers" (equivalent to applicant's uplink server). NTN also discloses (page 5), "Game servers...[used] to

execute the games...” It’s obvious these servers would serve as an uplink server to transmit content from their production studio game servers to the players. NTN however, fails to explicitly disclose any information regarding the question database, a scoring database, as well as any information regarding a real-time update server. NTN also discloses (page 5) that the game servers, “execute the games and collect user statistics...”)

7. Walker discloses (column 10, lines 50-54) that, “Linked to the tournament database would be a database devoted to storing questions and answers, from which trivia tournaments would extract questions.” He further discloses, (column 12, line 24), “Databases of...scores...”

8. The advantage of using a database, Walker writes (column 10, lines 60-67), is that, “[the] last database field is especially important given the time and expense associated with creating questions and answers, since the re-use of some questions is almost inevitable. While tournament organizers obviously do not want to have players seeing questions for the second time, they also do not want to throw out a question that only a small percentage of potential tournament participants have seen. Databases provide the best compromise...”. The advantage of using a score database, Walker writes (column 12, lines 24-25), is to, “...allow [players]...to check the comparability of their scores.”

9. This is evidence that one of ordinary skill in the art would find a reason/motivation/suggestion to use a question database to help eliminate the time and expense of generating questions, to prevent the re-use of question, and to prevent the

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loss of questions, as well as using a score database to allow players to compare their scores.

10. Therefore, it would be obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of NTN by implementing the question and score databases as described by Walker for the purpose of eliminating the time and expense associated with generating questions, to prevent the re-use of questions, and to prevent the loss of questions, and to allow players to compare their scores.

11. Still lacking is the limitation such as the real-time update serve where the real-time update server receives and transmits data.

12. Weitz discloses, (paragraph [0011]), "...a plurality of...servers, receiving real-time updates from the...source, and using the cross-broadcast real-time upload means to choose at least one of the...servers and to upload the real-time updates to the chosen...server(s)..."

13. The advantage of using real-time update servers, Wetiz writes, (paragraph [0007]) is, "...to have real-time online communication between the application running on the set-top box (e.g. a game) and the headend."

14. This is evidence that one of ordinary skill in the art would find a reason/motivation/suggestion to use real-time update servers for real-time communications between the STB and the headend.

15. Therefore, it would be obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of NTN when modified by Walker with the

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real-time update server as described by Weitz for the purpose of providing real-time communication between the STB and the headend.

16. As to claims 10 and 11, NTN discloses (page 2-3) that, "Each subscribing hospitality location is furnished with...proprietary equipment, including a customized site server computer, a satellite data-receiving unit, and an average of 14 Playmakers, which players use to enter their game play selections" (this is equivalent to the applicant's limitation of having a user reception device that receives signals from the uplink server). Signals are received via satellite, and as previously mentioned, signals are sent to the broadcast center via phone lines, which meets the applicant's limitation of transmitting signals to the gaming system via a second communications network. NTN's interactive content is distributed to the data receiving unit (applicant's reception device) which has access to the game server (applicant's question database). NTN further discloses (page 2) that, "Patrons use our hand-held wireless Playmaker devices to interact with trivia and sports games displayed on television screens in the hospitality location," and further discloses (page 2), "The...Playmakers also feature a larger, eight line LCD screen that displays sports scores and other ticker information and enable electronic, text-based chat between patrons" (equivalent to applicant's limitation of having a user input device that receives signals from the reception device and is capable of transmitting signals to the reception device).

17. **Claims 1, 2, 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over NTN in view of Junkin, USPAT 6,193,610, (Junkin).**

18. What is disclosed in NTN is discussed above and incorporated herein.

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19. NTN also discloses (page 5), "Web servers...used to connect the user to our web sites...[and] Login and registration servers...[that] allow a user to register and/or log in to our web sites" (equivalent to applicant's limitation of submitting user identification).

NTN further discloses (page 7) "Countdown", one of their interactive trivia games.

Countdown is one of NTN's longest-running trivia games, and it is well known by people familiar with the art, that Countdown uses a time-based scoring component. The game uses 15 questions, each with five possible answers, on a variety of topics. Players can earn up to 1,000 points per question based on how fast they answer; the number of points decrease as time passes. Clues are given to help the player eliminate incorrect choices, with the third clue usually alluding to what the correct answer is. The answer is given once time runs out. A score of 15,000 is considered a "perfect" score.

20. However, NTN fails to explicitly disclose a bonus score component or different skill levels.

21. Junkin discloses (column 7, 35-39) that, "The player score calculation may provide for the weighting of certain statistics depending on the importance, difficulty or occurrence rate of each statistic. In addition, the player score may be uniquely tailored to accommodate a particular event. Junkin further discloses, (column 11, lines 17-24) that, "...a certain skill factor is involved...The menu...allows the participant to be involved in different levels of the interactive game. The may be a beginners level, intermediate level and advanced level."

22. The advantage of using bonus scoring and different skill levels, Junkin writes, (column 1, lines 33-44) is, "...increasing the enjoyment of an interactive game...[and] increasing the level of skill and knowledge of a participant..."

23. This is evidence that one of ordinary skill in the art would have reason/motivation/suggestion to use bonus scoring and different skill levels in an interactive television gaming system for the increasing enjoyment, skill level, and knowledge of the participant.

24. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of NTN with the bonus scoring and different skill level component as described by Junkin for the purpose of increasing the enjoyment, skill level, and knowledge of the participant.

25. Further, the method of interactive gaming and method of calculating a time based component disclosed by the applicant merely discloses the steps of the interactive gaming devices operation, and since each element must be implemented in order to make the device, the method would have at least been obvious in view of the device.

26. Accordingly, claims 1,2,12, and 13 would have been obvious.

27. **Claims 4-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over NTN in view of Junkin, and further in view Walker.**

28. In regards to claims 4-7, the method of initiating a game, generating a plurality of questions, initiating a question/answer sequence, and managing the questions, as disclosed by the applicant, merely discloses the steps of performing these functions,

and since each element must be implemented in order to make the device, the method would have been obvious in view of the device.

29. NTN when modified by Junkin fails to explicitly disclose any information regarding the question database, a scoring database, as well as any information regarding a real-time update server. NTN also discloses (page 5) that the game servers, "execute the games and collect user statistics...")

30. Walker discloses (column 10, lines 50-54) that, "Linked to the tournament database would be a database devoted to storing questions and answers, from which trivia tournaments would extract questions." He further discloses, (column 12, line 24), "Databases of...scores..."

31. The advantage of using a database, Walker writes (column 10, lines 60-67), is that, "...[the] last database field is especially important given the time and expense associated with creating questions and answers, since the re-use of some questions is almost inevitable. While tournament organizers obviously do not want to have players seeing questions for the second time, they also do not want to throw out a question that only a small percentage of potential tournament participants have seen. Databases provide the best compromise...". The advantage of using a score database, Walker writes (column 12, lines 24-25), is to, "...allow [players]...to check the comparability of their scores."

32. This is evidence that one of ordinary skill in the art would find a reason/motivation/suggestion to use a question database to help eliminate the time and expense of generating questions, to prevent the re-use of question, and to prevent the

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loss of questions, as well as using a score database to allow players to compare their scores.

33. Therefore, it would be obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of NTN by implementing the question and score databases as described by Walker for the purpose of eliminating the time and expense associated with generating questions, to prevent the re-use of questions, and to prevent the loss of questions, and to allow players to compare their scores.

34. Claims 3 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over NTN in view of Junkin, and further in view of Crockett et al., US PUB 2004/0039631, (Crockett).

35. NTN's invention when viewed in conjunction with Junkin discloses bonus scoring, but does not explicitly disclose the bonus score components.

36. Crockett discloses (pages 3-4, paragraph [0038]), "...[a] weighted score is calculated by multiplying the...weighted score...by the ratio of the...score over the maximum possible...score.

37. The advantage of calculating the bonus score in this way, Crockett states (page 1, paragraph [0004]), "...enable[s] an organization to attract, retain, and develop desired customers and optimize the value of each of these customer relationships."

38. This is evidence that one of ordinary skill in the art would have reason/motivation/suggestion to use these components in calculating the bonus score in an interactive television gaming system for the purpose of attracting, retaining, and developing customers.

39. Therefore, it would be obvious to anyone of ordinary skill in the art at the time of the invention was made to modify NTN when modified by Junkin with the bonus score component as claimed for the purpose of customer attraction, retention and development, as suggested by Crockett.

40. As per claim 3 the method of calculating a bonus score component disclosed by the applicant merely discloses the steps of the interactive gaming device's operation, and since each element must be implemented in order to make the device, the method would have been obvious in view of the device.

Conclusion

41. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Schneider et al., US PUB 2004/0142742, as it refers to first line/second line communications between a player and gaming device.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher H. Bond whose telephone number is (571)-272-9760. The examiner can normally be reached on 8:30am - 5pm, M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tarifur Chowdhury can be reached on (571) 272-2287. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Christopher H Bond
Examiner
Art Unit 3709

*** CHB


TARIFUR CHOWDHURY
SUPERVISORY PATENT EXAMINER